

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, FEBURARY 7, 2005  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 2:04 p.m. Mayor Murphy recessed the meeting at 2:55 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:09 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 4:47 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:59 p.m. with Deputy Mayor Zucchet and Council Member Peters not present. Mayor Murphy adjourned the meeting at 6:09 p.m. into Closed Session immediately thereafter to discuss pending and potential litigation and Meet and Confer matters.

**ATTENDANCE DURING THE MEETING:**

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour (er)

FILE LOCATION:                      MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-not present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-not present

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by City Clerk Chuck Abdelnour.

FILE LOCATION: MINUTES



ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Young.

FILE LOCATION: MINUTES



ITEM-30: James O. Goldsborough Day.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-776) ADOPTED AS RESOLUTION R-300107

Honoring James O. Goldsborough for his 40-year career in journalism, his ethics, and his dedication to the Fourth Estate;

Commending James for standing up for his beliefs and defending the freedom of the press;

Proclaiming February 7, 2005, to be "James O. Goldsborough Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:17 p.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-31: Approval of Council Minutes.

**TODAY'S ACTION IS:** APPROVED

Approval of Council Minutes for the meetings of:

01/10/2005

01/11/2005

01/17/2005 – Adjourned

01/18/2005 – Adjourned

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:06 p.m. – 2:07 p.m.)

MOTION BY MADAFFER TO APPROVE THE MINUTES WITH THE FOLLOWING ADDITION TO THE MINUTES OF JANUARY 11, 2005, ITEM 50, AS READ BY COUNCIL MEMBER PETERS: GRANT THE PERMITS, THE MULTI-HABITAT AREA BOUNDARY LINE ADJUSTMENT AND HEIGHT DEVIATION, WITH THE REQUIREMENT THAT ANY SUBSTANTIAL CONFORMANCE REVIEW TAKE PLACE UNDER PROCESS 2 WITH NOTIFICATION TO THE COMMUNITY. TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE WITH THE FOLLOWING DIRECTIONS: COLOR OF THE BUILDINGS IS IMPORTANT AND SHALL NOT BE CHANGED; PARKING SHALL BE CONFIGURED TO BE INVISIBLE FROM THE TRAIL; THE FOOD SERVICE IS A WAITING PLACE FOR THE TRAIL AND IS A VERY IMPORTANT TRAIL AMENITY WHICH NEEDS TO BE PRESERVED; THE LANDSCAPING SHIELDS THE BUILDING AND IS IMPORTANT; THE BUILDING SHALL BE SET BACK AS FAR AS POSSIBLE. CHANGES MAY NOT BE MADE BY STAFF UNDER THE ASSUMPTION THAT THEY ARE MINOR. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea

**CLOSED SESSION ITEMS:**

**Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):**

**REFERRED TO CLOSED SESSION ON MONDAY, FEBRUARY 7, 2005**

CS-1 *Border Business Park v. City of San Diego*  
Appellate Case No. D039225; SDSC Case No. GIC 692794  
*Otay Acquisitions v. City of San Diego*  
San Diego Superior Court No. Case No. GIC 753247  
*National Enterprises, Inc. v. City of San Diego*  
San Diego Superior Court Nos. GIC 791407; GIC 805465

ACA assigned: Girard

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego [City] regarding the Border Business Park in Otay Mesa. The Border Business Park case resulted in a jury verdict against the City which is now on appeal. The National Enterprises and Otay Acquisitions cases are currently awaiting trial in the Superior Court. The Border Business Park case has been referred to a mediation process in the appellate court. In closed session the City Attorney will report on the status of the mediation and request appropriate direction.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Time duration: 2:18 p.m. – 2:19 p.m.)

**Mayor Murphy closed the hearing.**

CS-2    *San Diego County Taxpayers v. City*  
San Diego Superior Court No. GIC 841487

**REFERRED TO CLOSED SESSION ON MONDAY, FEBRUARY 7, 2005**

DCA assigned: McGrath

This matter involves a lawsuit against the City seeking to invalidate that agreement known as “Manager’s Proposal II”, between the City and the Retirement Board. In closed session the City Attorney will brief the City Council on the matter and make appropriate recommendations for proceeding.

**CLOSED SESSION PUBLIC TESTIMONY:**

**CLOSED SESSION COMMENT 1:**

William Gammon expressed his concerns regarding Mr. Aguirre’s pension reform recommendations.

**CLOSED SESSION COMMENT 2:**

Judy Italiano requested that the Council hire private outside counsel to represent the City in the San Diego County Taxpayers lawsuit against the City.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:20 p.m. – 2:25 p.m.)

**Mayor Murphy closed the hearing.**

CS-3 *San Diego City Employees' Retirement System v. Aguirre*  
San Diego Superior Court No. GIC 841845

**REFERRED TO CLOSED SESSION OF MONDAY, FEBRUARY 7, 2005**

DCA assigned: McGrath

This matter involves a lawsuit against the City and the City Attorney seeking a declaration and injunctive relief as to the rights of the Retirement System and its Board of Administration with respect to the provisions of legal advice and the role of the City Attorney, and the ownership on control of certain documents. In closed session the City Attorney will advise the City Council on the matter and make appropriate recommendations for proceeding.

**CLOSED SESSION PUBLIC TESTIMONY:**

**CLOSED SESSION COMMENT 1:**

Judie Italian cautioned Council to be careful in the investigation and in the lawsuit against Mr. Aguirre and his take-over attempts of the retirement system. Ms Italiano urged Council to keep in place the retirement system's rights to their own outside counsel. She stated that everyone is confused regarding the meet and confer issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:37 p.m.)

**Mayor Murphy closed the hearing.**



**Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c):**

CS-4 Number of Cases: One

**REFERRED TO CLOSED SESSION ON MONDAY, FEBRUARY 7, 2005**

DCA assigned: Foster

This matter involves potential litigation against the Retirement Board of Administration, its members, and Retirement System officials and employees for violation of the California Open Meeting Law, the Brown Act. In closed session the City Attorney will advise the City Council on the City's options with respect to initiation of litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:18 p.m. – 2:19 p.m.)

**Mayor Murphy closed the hearing.**

**Conference with Labor Negotiator, pursuant to Government Code section 54957.6:**

**REFERRED TO CLOSED SESSION ON MONDAY, FEBRUARY 7, 2005**

CS-5 Agency negotiators: Lamont Ewell, Cathy Lexin, Mike McGhee

Employee organizations: Municipal Employees Association, Local 127  
AFSME AFL-CIO, Local 145 International Association of  
Firefighters AFL-CIO, San Diego Police Officers  
Association

**CLOSED SESSION PUBLIC TESTIMONY:**

**CLOSED SESSION COMMENT 1:**

Johnnie Perkins commented on the confusion regarding who the employees will be negotiating with regarding labor contracts.

**CLOSED SESSION COMMENT 2:**

Judie Italiano commented on the confusion regarding meet and confer issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:37 p.m.)

**Mayor Murphy closed the hearing.**

**Public employment, pursuant to California Government Code section 54957(b)(1):**

**REFERRED TO CLOSED SESSION ON MONDAY, FEBRAURY 7, 2006**

CS-6 Title: City Auditor and Comptroller

CS-7 Title: City Manager

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:19 p.m.)

**Mayor Murphy closed the hearing.**

- \* ITEM-50: First Amendment to the Facility Franchise Agreement with San Diego Landfill Systems to Extend the Existing Agreement's Provisions Dealing with Disposal of Biosolids.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance, which was introduced on 1/24/2005, Item 51. (Council voted 9-0):

(O-2005-82) ADOPTED AS ORDINANCE O-19355 (New Series)

Amending the Facility Franchise Agreement with the San Diego Landfill Systems, to extend the existing Agreement's provisions dealing with disposal of biosolids, for an additional five year period, under the terms and conditions set forth in Amendment No. 1;

Authorizing the expenditure not to exceed \$1,585,339, solely and exclusively, to fund the beneficial reuse of biosolids from the effective date of Amendment No. 1 through the end of Fiscal Year 2005;

Authorizing the City Auditor and Comptroller to transfer any excess funds to the appropriate reserves upon advice from the administering department.

FILE LOCATION:                      FRAN-SAN DIEGO LANDFILL SYSTEMS (08)

COUNCIL ACTION:                      (Time duration: 2:17 p.m. – 2:18 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Young. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-100: Second One-Year Extension to Agreement with Allan Company to Operate the Miramar Recycling Center.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-763)                      ADOPTED AS RESOLUTION R-300109

Authorizing the City Manager to execute a second one-year extension to the Agreement with the Allan Company to operate the Miramar Landfill Recycling Center, under the terms and conditions set forth in Second Extension to Miramar Recycling Center Service Contract/Real Property Lease;

Authorizing the City Auditor and Comptroller to deposit the revenues received under this Second Extension to the Agreement in Fund No. 41210 – Recycling Fund.

**CITY MANAGER SUPPORTING INFORMATION:**

In 2001, the San Diego City Council authorized the City Manager to execute a new agreement with Allan Company (Contractor) for the operation of the Miramar Recycling Center (Center), located at the entrance of the City's Miramar Landfill (Resolution RR-295859). The new agreement provided the City with increased revenue, services, and capital improvements, in exchange for a five-year contract that includes an automatic renewal provision. The City agreed, that after the second year of the contract, it would extend the contract on an annual basis, with Council approval. As a result, if the City Council fails to agree to an extension, the contract will be terminated in three years.

Extending the current agreement will allow Contractor to continue providing City residents with high quality services in support of the City's efforts to meet State mandated solid waste diversion goals. In 2004, Contractor has spent \$35,000 on site improvements and marketing in fulfillment of the Agreement and an additional \$68,700 on improvements and marketing beyond the scope of the Agreement. They have also increased usage 11 percent from 2002 to 2003, serving over 71,000 customers a year. In addition to traditional recycling services, the Center accepts special handling items such as appliances containing Chlorofluorocarbons (CFC) (refrigerators, freezers and air conditioners), other appliances, and cathode ray tube (CRT) devices such as computer monitors and TVs. In addition, Contractor also provides free tax paper shredding and recycling during April, cooking oil recycling, and sale of bagged Miramar Greenery compost and Recycle Or Else gear at no additional charge to the City.

**FISCAL IMPACT:**

Revenues from this agreement are estimated at \$59,400 for FY 2005, \$65,400 for FY 2006, and \$77,400 per year thereafter.

Mendes/Heap/PP

FILE LOCATION: LEAS- ALLAN COMPANY

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:18 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-101: Department of Homeland Security Buffer Zone Protection Plan Initiative.

(See City Manager Report CMR-05-016.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-770) ADOPTED AS RESOLUTION R-300110

Authorizing the City Manager, Deputy City Manager, or his designated representative, to accept up to \$50,000 worth of equipment for each Buffer Zone Protection Plan completed and approved by the Department of Homeland Security;

Authorizing the City Manager, or his designated representative, to take all necessary actions to secure the equipment from the Department of Homeland Security.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:01 p.m. – 6:05 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-102: Amendment to Council Policy 700-42 Recreation Councils "Special Use Permits".

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-737) ADOPTED AS RESOLUTION R-300111

Amending Council Policy No. 700-42, dated October 27, 1986, titled "Recreation Councils" to allow for the issuance of "Special Use Permits" to recreation councils for periods of up to three years, as set forth in the Council Policy;

Instructing the City Clerk to add the aforesaid to the Council Policy Manual.

**CITY MANAGER SUPPORTING INFORMATION:**

Council Policy 700-42 directs that the City issue "Special Use Permits" to recreation councils on an annual basis. On December 7, 2004, the City Council adopted an ordinance (Ordinance Number O-19341) amending the San Diego Municipal Code, Section 22.1502, that allows for issuance of "Special Use Permits" for periods of up to three (3) years.

This action by the City Council will make Council Policy 700-42 compatible with the San Diego Municipal Code, Section 22.1502.

Herring/Oppenheim/BD

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:18 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-103: Appointment and Reappointment to the San Diego Planning Commission.

(See memorandum from Mayor Murphy dated 01/24/2005, with resumes attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-777) RETURNED TO THE MAYOR'S OFFICE

Council confirmation of the following appointment and reappointment by the Mayor to serve as members of the San Diego Planning Commission for four-year terms ending January 28, 2009:

Appointment

Robert S. Griswold  
(Replacing Anthony J. Lettieri, whose term has expired)

Reappointment

Barry J. Schultz

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:06 p.m. – 2:06 p.m.)

\* ITEM-104: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District 8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-408) ADOPTED AS RESOLUTION R-300112

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L - State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:18 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-105: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District 8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-680)                      ADOPTED AS RESOLUTION R-300113

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION:                      GEN'L - State of Emergency Due to Economic  
Circumstances in the San Diego-Tijuana Border Region

COUNCIL ACTION:                      (Time duration: 2:17 p.m. – 2:18 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-106: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-683)                      ADOPTED AS RESOLUTION R-300114



Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

**CITY MANAGER SUPPORTING INFORMATION:**

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION: GEN'L - Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV)

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:18 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

\* ITEM-107: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-588) ADOPTED AS RESOLUTION R-300115

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L - State of Emergency Due to Severe Shortage of  
Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:18 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-200: Two actions related to Additional Funding for the Central Police Garage Relocation Project.

(City Heights Community Area. District 3.)

(Continued from the meeting of January 24, 2005, Item 100, at the request of Carolyn Chase (member of the public), to address what effect additional funding will have on deferred maintenance.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2005-730) ADOPTED AS RESOLUTION R-300116

Amending the Fiscal Year 2005 Capital Improvement Program Budget by increasing CIP-36-063.0, Central Police Garage Relocation, Fund No. 630221, Contributions from the General Fund;

Authorizing City Auditor and Comptroller to transfer an amount not to exceed \$85,000 from Fund No. 100, General Fund Police Department FY05 Operating Budget, to Fund No. 630221, Contributions from the General Fund;

Authorizing the City Auditor and Comptroller to appropriate and expend \$85,000 from Fund No. 630221, Contributions from the General Fund into CIP-36-063.0, Central Police Garage Relocation, for the purpose of construction;

Authorizing the expenditure of an amount not to exceed \$188,409 from Fund No. 30244, CIP-37-028.0, Undergrounding of Utilities to Sundt Construction, for the purpose of undergrounding overhead utilities on Federal Boulevard and tying those in with the new on-site utilities in the Police Garage, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department to transfer excess budgeted funds, if any, to the appropriate reserves.

Subitem-B: (R-2005-715) ADOPTED AS RESOLUTION R-300117

Stating for the record that the information contained in the final Mitigated Negative Declaration, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of the Central Police Garage Relocation;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

**CITY MANAGER SUPPORTING INFORMATION:**

On September 23, 2003, the City Council authorized the award of a design build contract for the Central Police Garage Relocation (RR-298416). The project site is located at the northeast corner of Home Avenue and Federal Boulevard within the Fairmount Park neighborhood of the City Heights Community Planning Area. The 28,000 square foot Vehicle Maintenance Facility (VMF), currently under construction, will include administrative offices, vehicle service, storage space, surface parking spaces, fuel station, oil lubrication site, and vehicle wash bay. To accommodate the VMF building, the existing K-9/SWAT facility is being relocated to vacant land to the east of the pistol range and north of Federal Boulevard. No modification to the pistol range was proposed as a part of this project. This project has been coordinated extensively with the community, and includes sidewalk improvements, landscaping in accordance with the

Chollas Creek Enhancement Plan, a meeting room, post construction Best Management Practices (BMP's), acquisition of parkland, and public art.

At the request of the Police Department, an additional \$85,000 of funding is being provided for improvements not originally included in the project. These include: a concrete apron around the Vehicle Maintenance Facility; dog training field lighting; additional doors and walks around the modular building at the K-9/SWAT facility, and other design changes unforeseen at the award of this contract. In addition, the contract calls for the undergrounding of all on-site utilities. The additional \$188,409 from CIP-37-028.0, Undergrounding of City Utilities, will allow the existing overhead utilities in the Federal Boulevard be undergrounded with the on-site utilities, and provide Street Lights with all the other Public Improvements being installed by the Design-Build Contractor.

**FISCAL IMPACT:**

The total project cost is \$10,673,409. Previously, The City Council authorized the design-build contract for a total cost of \$8,220,000. The total cost of this action is \$273,409. Funding is available from FY 05, Police Department Operating Budget, Fund No. 100, General Fund (\$85,000) and CIP-37-028.0, Undergrounding of City Utilities, Fiscal Year 2005 Annual Allocation, Fund No. 30244, Underground Surcharge Fund (\$188,409).

Mendes/Boekanp/AO

Aud. Cert. 2500640.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:37 p.m. – 2:55 p.m.; 4:59 p.m. – 6:01 p.m.)

MOTION BY ATKINS TO ADOPT WITH DIRECTION TO STAFF TO MOVE FORWARD ON ACQUIRING CDBG FUNDS FOR THE BERNADINI FIELDS. Second by Young. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-201: Preliminary Discussions with the San Diego Chargers.

(Mission Valley and Serra Mesa Community Areas. Citywide.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-792) RETURNED TO THE CITY MANAGER

Authorizing preliminary discussions with the San Diego Chargers regarding a long-term solution for the Chargers to remain in San Diego subject to voter approval;

Authorizing a City negotiating team consisting of Deputy City Manager Bruce Herring, Assistant City Attorney Leslie J. Girard, Paul Jacobs, Esq., and Daniel S. Barrett, to conduct the preliminary discussions with the Chargers on behalf of and for the City of San Diego;

Authorizing the City Manager to enter into agreements with Mr. Jacobs and Mr. Barrett for the provision of necessary consultant services in an initial aggregate amount not exceeding the City Manager's authority pursuant to the San Diego Municipal Code, subject to the City Auditor and Comptroller providing the necessary certificate that the funds are available for such purpose.

**CITY MANAGER SUPPORTING INFORMATION:**

On July 26, 2004, the City Council approved Supplement Number Eighth to the 1995 Agreement for Partial Use and Occupancy of San Diego Jack Murphy Stadium between the City and the San Diego Chargers by Ordinance, OO-19302. That agreement accomplished several objectives, including providing the City and the Chargers with a foundation to explore a long-term solution for the Chargers to remain in San Diego subject to voter approval. Specifically, Section 3.2 of the agreement, Long-Term Stadium Development, reads as follows: "The parties shall meet and confer on a mutually convenient basis to discuss the development of a proposal for the financing and development of a new stadium to be voted on by the general public. Neither party is obligated to participate in the financing or development of a new stadium, and the parties acknowledge that there is no assurance that (a) the parties will arrive at a mutually satisfactory proposal, (b) such a proposal will be submitted to a public vote, or (c) if submitted, such proposal will be approved by the voting public."

During previous discussions with the Chargers regarding their future in San Diego, it was contemplated that any mutually satisfactory proposal developed could be presented to the voters in 2006. While there is no obligation on the part of either party, preliminary discussions need to begin as soon as possible to allow time to conduct any research and work necessary to explore solutions. The San Diego Chargers have indicated they are interested in proceeding at this time. Therefore, it is recommended that the City Council authorize preliminary discussions with the San Diego Chargers regarding a long-term solution for the team in San Diego.

It is further recommended that a City team consisting of Deputy City Manager Bruce Herring, Assistant City Attorney Leslie J. Girard, Paul Jacobs, Esq., and Daniel S. Barrett be designated to conduct the preliminary discussions with the Chargers. This is the team which, along with Councilmember Zucchet, was designated by the City Council previously and successfully renegotiated the agreement with the Chargers to eliminate the ticket guarantee. Mr. Jacobs and Mr. Barrett, who have valuable expertise in sports issues, would be retained as consultants under the City Manager's authority, in an amount not-to-exceed \$100,000, to participate as members of the City team. Expenditures within the Stadium Fund would be prioritized to accommodate the associated expense.

**FISCAL IMPACT:**

None with this action. Consultants would be hired under the City Manager's authority, not to exceed \$100,000, and expenditures within the Stadium Fund would be prioritized to accommodate the expense.

Herring/LKC

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:10 p.m. – 4:46 p.m.)

Motion by Young to establish a negotiation team made up of three to four Council Members, the City Attorney, City Manager and public representatives that have expertise in negotiating and bargaining to negotiate with the Chargers and not hire consultants. Set a date after '06 budget has been heard and the annual appropriations ordinance has been adopted to address this issue. Second by Frye. Failed. Yeas – 4, 5, 6. Nays – 1, 2, 3, 7, 8, M.

(Time duration: 6:05 p.m. – 6:09 p.m.)